

Department of Permits and Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204
Baltimore County, Maryland

In the Matter of

Civil Citation No. 71939

Everardo Lujan-Diaz
Alicia Diaz

1903 Dundalk Avenue

Respondents

FINDINGS OF FACT AND CONCLUSIONS OF LAW
FINAL ORDER OF THE CODE ENFORCEMENT HEARING OFFICER

This matter came before the Baltimore County Code Enforcement Hearing Officer on April 7, 2010 for a Hearing on a citation for violations under the Baltimore County Code (BCC) section 13-4-201 (b)(d), failure to store garbage in containers with tight fitting lids; section 13-7-310, 312, failure to remove trash, junk and debris; section 35-5-302 (a)(3) failure to eliminate rat infestation; Baltimore County Zoning Regulations (BCZR) section 428, failure to cease the storage of untagged, inoperative, damaged, disabled vehicles; section 101, 102.1, failure to remove contractors equipment storage yard on residential property known as 1903 Dundalk Avenue, 21222.

On March 3, 2010, pursuant to § 3-6-205, Baltimore County Code, Inspector Jeffrey Radcliffe issued a Code Enforcement & Inspections Citation. The citation was sent to the Respondent by 1st class mail to the last known address listed in the Maryland State Tax Assessment files.

The citation proposed a civil penalty of \$5,000.00 (five thousand dollars).

The following persons appeared for the Hearing and testified: Alicia Diaz, Respondent and Jeffrey Radcliffe, Baltimore County Code Enforcement Officer.

After proper consideration of all the evidence presented, the Hearing Officer finds:

A. A Correction Notice was issued on December 11, 2009 for removal of contractor's equipment storage yard, remove trash and debris, store garbage in cans with tight lids, cease rat infestation. This Citation was issued on March 3, 2010.

B. Inspector Jeff Radcliffe testified that Respondents requested and were given extensions of time before the Citation was issued. Photographs in the file show a partly finished construction project on the house. Photographs show junk and trash and debris in the yard, including an old refrigerator, buckets, scrap lumber, and old tires. This violates prohibitions against the accumulation of junk, trash and debris on residential property, and prohibitions against creation of possible harborage for rats. BCC Section 13-4-201, Section 13-7-309, Section 13-7-310. Photographs also show a cement mixer. Photographs show garbage and trash in cans without lids; all garbage must be properly stored in cans with tight fitting lids. Re-inspection on April 5, 2010 found some improvement but some junk and trash remains, and rat burrows are still visible. County law requires a property owner or occupant to treat a rat infestation until the rats are eradicated. BCC Section 13-7-305. County law also requires property owners and occupants to remove and abate rat harborage, including closing rat burrows. BCC Section 13-7-306.

C. Photographs in the file show a red Toyota automobile with expired tags. County zoning regulations prohibit the outside storage of inoperative motor vehicles on a residential lot. BCZR Section 428.1(A). The outside storage of unlicensed motor vehicles is also prohibited, except for one vehicle per dwelling unit for a period not exceeding 15 days in any calendar year. Section 428.1(B). Respondents have exceeded this limitation. Respondents must put valid tags on the vehicle and make it operable, or remove it from the property.

D. Respondent Alicia Diaz testified that the Toyota vehicle belongs to her brother and she will make sure it is moved. She testified that she has been putting rat bait down the holes and filling in the holes, but the rats open the holes back up. She testified that she will keep putting bait down, and that when she has the money she will hire an exterminator again to use stronger bait. Her husband just went back to work. She will replace the garbage cans to obtain lids; the lids were thrown away by the trash collectors. The refrigerator and cement mixer are outside because of the construction/renovation project and are being used.

E. According to testimony presented, Respondents are taking appropriate steps to exterminate the rat infestation. Some cleanup has been done. The cement mixer is on the premises for use in the ongoing construction project. The garbage is not properly stored, but Respondent has committed to correcting the violation. The vehicle must have valid tags or be removed from the property. Because compliance is the goal of code enforcement, and Respondents have made progress in correcting the violations, the civil penalty will be rescinded if the violations are corrected within the time provided below.

IT IS ORDERED by the Code Enforcement Hearing Officer that a civil penalty be imposed in the amount of \$500.00 (five hundred dollars).

IT IS FURTHER ORDERED that the civil penalty will be RESCINDED and reduced to zero dollars if the violations are corrected by May 3, 2010, with all vehicles properly tagged, all junk, trash and debris cleaned up, and all garbage properly stored in cans with tight lids.

IT IS FURTHER ORDERED that if not paid within thirty days of billing, the civil penalty, as authorized above, shall be imposed and placed as a lien upon the property.

IT IS FURTHER ORDERED that the County inspect the property to determine whether the violations have been corrected.

ORDERED this 16th day of April 2010

Signed: ORIGINAL SIGNED
Margaret Z. Ferguson
Baltimore County Hearing Officer

NOTICE TO RESPONDENT: The Respondent is advised that (1) pursuant to §3-6-206(g)(2) of the Baltimore County Code, the Respondent may make written application to the Director of the Department of Permits & Development Management within 10 days to modify or amend this order and (2) pursuant to §3-6-301(a), Baltimore County Code, the Respondent may appeal this order to the Baltimore County Board of Appeals within fifteen (15) days from the date of this order; any such appeal requires the filing of a petition setting forth the grounds for appeal, payment of a filing fee of \$150 and the posting of security to satisfy the penalty assessed.

MZF/jaf